

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.3446/2006

CORAM: Hon'ble Shri S.R.Nayak, Chief Justice &

Hon'ble Shri D.R.Deshmukh, J.

Petitioner : Sanjay Kumar Yadav, S/o H.S.Yadav, Agd about 32 years, Proprietor of M/s Maharaja Vikramaditya Transport Company, R/o Dhamda Road, Durg Chhattisgarh.

Versus

Respondents : 1. Union of India, Through the Secretary, Ministry of Food & Civil Supplies, New Delhi.
: 2. Food Corporation of India, Through its General Manager, Chhattisgarh Region, Kampa Raipur, Chhattisgarh.
: 3. Zonal Manager (ZM), Food Corporation of India, Dr. Anank Kanker Road, Bandra, Mumbai - 400 051.
: 4. Regional Manager, Food Corporation of India, In front of Ganj Mandi, Dhamda Road, Durg, Chhattisgarh.

Shri Rajeev Shrivastava, learned Counsel for the petitioner.

Shri Bhishma Kinger, learned Standing Counsel for Union of India.

Shri Prashant Jaiswal, Senior Advocate with Shri Ali Asgar, learned counsel appears for Food Corporation of India.

ORAL ORDER

(Passed on 17.07.2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

The petitioner is a transport contractor and he has established a Company under the name and style M/s Maharaja Vikramaditya Transport

Company, Durg. The petitioner was involved in the business of transportation of food stuffs from the Chhattisgarh State Civil Supplies from the Chhattisgarh State Civil Supplies Corporation for the years 2003-04, 2004-05 and 2005-06.

2. The Food Corporation of India (F.C.I.) issued tender notice dated 2.5.2006 in Hindi Language for Rail Head Handling Transport Contract (RHHTC), Long Route Transport Contract (LRTC) and Internal Transport Contract (ITC).

3. The petitioner purchased the tender documents on 24.5.2006 which were in English Language. Admittedly, the last date to submit tender was 9.7.2006. The petitioner though purchased the tender documents did not submit tender. According to the petitioner, his whole education was done in Hindi medium and he does not "understand English language properly", and therefore, he could not submit the tender before the cut-off date i.e. 9.7.2006. When the matter stood thus, this Writ Petition was presented in this Court on 11.7.2006 praying for the following reliefs:

7. RELIEFS SOUGHT:-

The petitioner most humbly prays for the following reliefs:-

- 7.1) The Hon'ble Court may kindly be pleased to call for the entire records of the case, leading to the impugned inaction on the part of the respondents, for its kind perusal.
- 7.2) The Hon'ble Court may kindly be pleased to cancel the tender form and direct the respondents to publish the tender form in Hindi and English languages simultaneously as per the earlier practice.

7.3) Cost of the petition.

7.4) Any other relief which this Hon'ble Court deems fit and proper may kindly be granted to the petitioner, in the interest of justice.

4. It was the submission of the learned counsel for the petitioner that the failure of the Food Corporation of India to issue the tender notice in Hindi language has violated the right of the petitioner guaranteed under Article 14 of the Constitution, to be specific, equality before the law and equal treatment of law. Elaborating the submission, learned counsel would contend that the petitioner could not apply for award of contract in pursuance of the tender notification dated 2.5.2006, because, he does not understand English language fully.

5. It is true that when State Authorities or Instrumentalities of the State proceed to part with their largesse, an opportunity to competent for award of largesse should be thrown upon to all eligible persons and they cannot practise invidious discretion violating Article 14 postulate. It was highlighted by drawing attention to the materials placed before us, which would show that in earlier years the F.C.I. used to issue tender notification both in English language and Hindi language.

6. Having heard learned counsel for the parties, we are of the considered opinion, this Writ Petition is liable to be dismissed *in limine* on the ground of delay and laches itself. On merit too, this is not a case to intervene under Article 226 of the Constitution. The petitioner is not a stranger to the business of transporting foods stuffs from the Chhattisgarh State Civil Supplies Corporation. His own pleading, as set out in

paragraph 5.4, would show that he was awarded with the contract of transporting of food stuffs from the Chhattisgarh State Civil Supplies Corporation for the years 2003-04, 2004-05 and 2005-06. The petitioner with the said background purchased the tender documents on 24.5.2006, quite well before the cut-off date, fixed by the tender notification, for submission of the tenders, but, the petitioner, for the reasons best known to him, did not bother to know the contents of tender documents which were in English nor thought it appropriate to move this Court well in advance before the cut off date i.e. 9.7.2006. There is absolutely no word of explanation much less satisfactory explanation for the delay. There is a serious lapse on the part of the petitioner in approaching this Court. It is not the length of delay which matters. In some cases, even few days delay may be fatal whereas in other cases few years delay may not be fatal. If the petitioner did not really understand the contents of the tender documents when he purchased the same on 24.5.2006, there were two courses open to him; (i) to know the contents by some persons knowing English language and if that course was not acceptable to him, then (ii) to approach this Court without any loss of time well before the cut off date i.e. 9.7.2006. The petitioner having approached this Court at a belated stage after the cut off date cannot be permitted to stall the matter. It is needless to state that transportation of food stuffs from the Chhattisgarh Civil Supplies Corporation for the benefit of the beneficiaries promptly is of vital importance and in public interest, and the contract that may be awarded to eligible candidates cannot be stalled at the instance of a persons who slept over the matter without any justification and approached the Court at a belated stage.

7. On merit too, we do not find any good case for the petitioner. We pointedly asked the learned counsel for the petitioner to show us any law which would mandate the F.C.I. to issue tender documents as a matter of legal obligations both in English language as well as in Hindi language and he was not in a position to trace such obligation with reference to any statute or Constitutional provisions.

8. In the result and for the foregoing discussion, we dismiss the writ petition.

Sd/-
Chief Justice

Sd-/
Dilip Raosaheb Deshmukh
Judge

Anani